

receivers cannot be sold. Grand Alliance Comments at 17; Thompson Comments at 9. "During and even after the transition to digital," they both claim, "there will be a demand for NTSC sets driven by preexisting cable services, wireless cable services, direct broadcast satellite services and VCRs."²³ Grand Alliance Comments at 17; Thompson Comments at 9. *See* Broadcasters' Coalition Comments at 36 (contrary position). Moreover, they can "see no need" for requirements that manufacturers include labels that warn consumers that at some point their analog set will no longer receive over-the-air broadcasts. *Id.* They feel that warning consumers would "only add confusion to the conversion process." *Id.* at 18. *See*, Broadcasters' Coalition Comments at 36 (contrary position).

In addition, the Electronics Industry Association ("EIA") urges the commission not to mandate "dual mode" (NTSC and ATV compatible) receivers, claiming that "[t]he marketplace will ensure that consumers know their equipment options." Comments of EIA at 15. *See also* Grand Alliance Comments at 17; Thompson Comments at 8-9.

But any suggestion that the "marketplace" or the "good faith" of television manufacturers will serve the public here should be quickly dismissed.²⁴ The broadcasting and manufacturing

²³Significantly, this claim contradicts the various broadcasters' claims that their survival requires them to convert to digital. *See, e.g.*, Testimony of Neil Braun, President, NBC Television Network, *En Banc* Hearing on Digital Television, at 2-5; Comments of CBS, Inc. at 3.

²⁴It is particularly ironic that those parties that are arguing for a marketplace solution to consumer information for digital television receivers are demanding strong government mandates for HDTV minima. EIA Comments at 5; Thompson Comments at 4; Grand Alliance Comments at 4.

industries are asking consumers to make a multi-billion dollar investment in new television sets,²⁵ yet manufacturers want to do nothing to educate and inform them about that decision, or to ensure that they do not prematurely lose access to NTSC.

Labeling requirements and phase-out of NTSC set construction would in no way constrain manufacturers' freedom to design and to market the sets. And the combined public relations strength of the broadcast industry and the major television set manufacturers should be more than enough to educate the public and overcome any "confusion" that negative labels might cause. A more likely motivation for this suggestion is that it would maintain a high level of analog set sales until the very end of the transition by, in effect, misleading or confusing consumers. The burdens that labeling and public education may cause the electronics and broadcast industries are far outweighed by the need to protect consumers who will expend substantial sums on digital television receivers.²⁶

VII. PUBLIC BROADCASTING

The comments of the Association of America's Public Television Stations and the Public Broadcasting Service ("AAPTS") set forth an inspiring vision of the benefits ATV promises for public television viewers, including detailed, high fidelity cultural programming and information delivery to support children's and adult learning programming. *See* AAPTS Comments at 4-8. The AAPTS comments also detail a legislative proposal which it hopes will finance the conversion

²⁵The fact that the conversion to digital will make every current television receiver obsolete renders comparisons to the conversion to color television quite inapt. Testimony of Neil Braun, En Banc Hearing on Digital Television, at 3-4.

²⁶Resistance to phase-out requirements may also evidence a knowledge that the transition will be extremely slow.

to digital television and establish a trust fund for continued public broadcast station operations.

Id. at 10-13.

In this and other proceedings, MAP, *et al.* have urged policy makers to ensure that non-commercial, educational speech can flourish as technology changes. *See, e.g.*, Testimony of People for the American Way Action Fund and Media Access Project in support of S. 2195 (July 15, 1994). Several of the parties joining these comments have therefore advocated legislation and other policies that would permit local government institutions, libraries, schools, public broadcasters and other nonprofit organizations to have low-cost access to advanced telecommunications networks, and, as discussed above, digital television. MAP, *et al.* believe that only with such access will the much-touted "information superhighway" help democracy, civic discourse, education, and artistic expression to flourish.

Public broadcasting, of course, is a vital component of this noncommercial, nonprofit sector, and MAP has long supported its continuing vitality. Therefore, should the Commission grant part or all of the 6 MHz of spectrum to broadcasters, MAP, *et al.* would support relaxation of the construction and transition timetables and financial qualifications for these stations, and would also urge the Commission to waive any fees for ancillary and supplementary services these stations may provide.

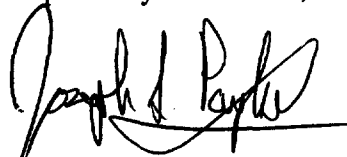
This support, however, should not be counted as a wholesale endorsement for public broadcasting's larger legislative initiative, *i.e.* creation of a "trust fund" through lease of ATV spectrum to programmers or other service providers. MAP, *et al.*'s objection to the APTS proposal is that it benefits only noncommercial radio and television *stations*. Any such funding proposal should also benefit other important noncommercial uses, such as school and library

access to advanced telecommunications networks, production of children's informational and educational programming, and minority media development programs.²⁷

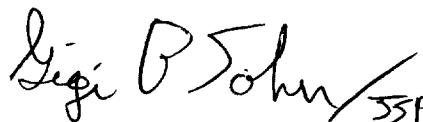
CONCLUSION

For all the foregoing reasons, MAP, *et al.* urge the Commission implement the policies set forth above and to reject the attempts by many broadcasters to take 6 MHz of valuable, scarce spectrum while in return giving back no significant amounts of HDTV programming, no additional free, over-the-air SDTV programming, and no additional public service.

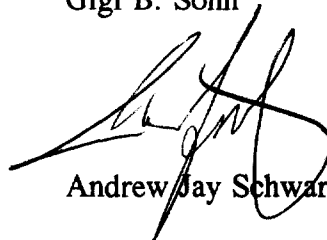
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²⁷The APTS proposal also raised questions as to whether spectrum allocated for noncommercial uses may be leased to commercial service providers.